

Docket No. F-8098

Scr. No. 10/751,378

REMARKS

The Examiner maintains the rejection of the claims under 35 U.S.C. § 103(a) as being unpatentable over JP 11-200956 as modified by any one of JP 2003-278544, JP 2002-285843, Plaff et al (U.S. Patent No. 6,343,572), Derwent Pub. 2002-423613, JP 08-261071 or Saito et al (U.S. Patent No. 6,758,173) where each of the six modifying references is cited for teaching an expansion tank. The claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the stated prior art as further modified by Charlton et al. (U.S. Patent No. 5,732,688) and Malatto et al. (U.S. Patent No. 6,340,006 B1).

In reviewing the application and the references, none of the references teach the limitations recited in claims 1 and 2 as modified to include the concurrent flow heat exchanger 5 comprising a heat pipe connected in a hydraulic loop with a cooling medium cooling portion 12 and not an engine. In comparison, JP '956 teaches connecting in a hydraulic loop a counter flow heat exchanger 20 and an engine 1 (JP '956 , Fig. 1 and paragraph 15).

Furthermore, references fail to teach that the heat pipe 5 contains an inlet 10 and an outlet 11 for cooling liquid, a plurality of heat pipes 1 for transporting the EGR gas, a temperature sensor 18 readable by a controller for adjusting the supply amount of cooling medium fluid, where the sensor 18 is connected 18 to at least one of the heat pipes 1 and disposed between the inlet

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10 and outlet for the EGR gas. In comparison, JP '956 fails to teach or disclose a heat exchanger having any of these limitations and Charlton, for example, teaches a temperature sensor 98 which determines the temperature of the housing 80 and not the heat pipes disposed within the housing.

Applicant has amended the pending claims and provided new claims reciting the distinguishing features of the invention. As the references fail to teach these features, Applicant respectfully asserts that the invention is patentable thereover. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974) (a prima face case of obviousness is established only where the combination of cited references teaches or suggests each limitation in the claim).

Applicant respectfully requests a two month extension of time for responding to the Office Action. **The fee of \$450.00 for the extension is provided for in the charge authorization presented in the PTO Form 2038, Credit Card Payment form, provided herewith.**

If there is any discrepancy between the fee(s) due and the fee payment authorized in the Credit Card Payment Form PTO-2038 or the Form PTO-2038 is missing or fee payment via the Form PTO-2038 cannot be processed, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

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In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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